

Prisons as Reflections of Societal Gender Norms and Rape Culture

Povzetek

Zapori kot odsev družbenih spolnih norm in kulture posilstva

Članek obravnava pojav spolnega nasilja v zaporih in v širši družbi, pri čemer ugotavlja, da je njegova razširjenost v zaporskem okolju bistveno večja. Na podlagi teoretskih izhodišč Susan Brownmiller, Catharine MacKinnon in Angele Davis analizira problematiko posilstva in spolnega nasilja z različnih vidikov. Poseben poudarek namenja nasilju nad najbolj ranljivimi skupinami v zaporih: nasilju med moškimi zaporniki v moških zaporih, spolnim zlorabam zapornic s strani moških paznikov v ženskih zaporih ter nasilju nad transspolnimi ženskami v moških zaporih. Ugotavlja, da so ti pojavi, podobno kot v širši družbi, rezultat družbenih spolnih norm in t. i. kulture posilstva. Obstoječe birokratske politike se izkažejo za neučinkovite, saj pogosto obravnavajo zgolj simptome, ne pa temeljnih vzrokov. Zato članek nakazuje potrebo po drugačnih pristopih, ki vključujejo preprečevalne strategije, odpravljanje strukturnih neenakosti, spremembo zaporniške kulture ter razumevanje presečišč spola, spolnosti in moči.

Ključne besede: spolno nasilje, zaporniški sistem, ranljive skupine, patriarhat, kultura posilstva

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Abstract

This article examines the phenomenon of sexual violence in prisons and in broader society, noting that its prevalence is significantly higher in prisons. Drawing on the theoretical frameworks of Susan Brownmiller, Catharine MacKinnon, and Angela Davis, it explores rape and sexual violence from different perspectives. The focus is on violence against the most vulnerable groups in prison: assaults among male prisoners in men's facilities, abuse of female prisoners by male guards in women's prisons, and violence targeting transgender women in men's prisons. The findings suggest that sexual violence in prisons—like in wider society—is rooted in social gender norms and a broader 'rape culture'. Current bureaucratic policies have failed to produce the desired results, often addressing symptoms rather than causes. Therefore, the article also considers alternative approaches, including prevention strategies that address structural inequalities, prison culture, and the intersection of gender, sexuality, and power.

Keywords: sexual violence, prison system, vulnerable groups, patriarchy, rape culture

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Sexual violence is a pervasive issue in contemporary society. In the United States, it affects 81% of women and 43% of men (Kearl, 2018). Young girls, women, members of marginalised communities, people of colour, and members of the LGBTQIA+ community are amongst the demographics especially vulnerable to sexual violence. While sexual violence is still on the rise, it has been fought by the 1970s feminist movements that coined the terms rape culture and the more recent MeToo movement that aimed to show solidarity between victims of sexual assault and break the stigmatization they face all too often. However, while sexual harassment in the workplace has received a lot of backlash, there are environments where sexual violence frequently goes interrupted due to its isolated, private nature. Prisons exist and always have existed on the outskirts of the general population, hidden from the eyes of people who do not experience them directly, as prisoners and workers do. Environments full of imbalance of power, prisons serve as microcosms of our society and show exacerbated rates of sexual violence and a much lower rate of conviction and prosecution. This essay

will look at the scope of the issue in society and prison, then look at some of the key theories that aim to explain the prevalence of sexual violence (in prisons), and then carefully examine the types of sexual victimisation faced in male and female prisons and how they reflect societal gender norms. It will argue that the rates of sexual violence are so high in prisons because prisons reflect the values of our society and test the boundaries of what is allowed and what is punished behind closed doors. Trends of sexual violence in prisons reflect the trends of the general population, indicating this is a systemic issue both behind bars and out in the open. While sexual violence (in prisons) is a global issue, this paper will focus on limited contexts, drawing on the evidence from mainly the United States and South Africa.

Understanding sexual violence in society – a brief introduction to the terms and the scope

Sexual violence is a global pandemic that receives little to no attention. Defined broadly, the term sexual violence encompasses any sexual act directed towards a person without their consent and can include, but is not limited to, “sexual coercion, sex with a person who is asleep or unconscious, non-consensual choking or rough sex, as well as rape and sexual assault with physical violence” (Jimenez Aceves and Tarzia, 2024: 3226). Many feminist scholars attribute the prevalence of sexual violence in our society to the existence and prevalence of rape culture. Rape culture, a term coined by second wave feminists in the 1975 movie of the same name, refers to rape as an abuse of power and aggression learned through a “process of socialization” (Walton, 2002: 1). An environment where rape culture exists is prone to normalizing rape and sexual violence and minimizing the adverse effects it has on the victims and the community as a whole. Such an environment may employ practices like victim-blaming to perpetuate rape culture. Relatedly, sexual violence is seldom taken seriously by the criminal justice system. In fact, out of 1000 reported rapes, only seven will result in a conviction of the perpetrator (Hong, 2018: 259). Rape has been and remains one of the crimes with the lowest prosecution rates. Although the conviction rates are incredibly low, when they do occur, they in 90% of the cases lead to time in prison and often result in excessively long prison sentences (Hong, 2018: 260). Oftentimes, perpetrators reoffend, which points to the fact that rehabilitation is failing. Furthermore, a large portion of cases go unreported, especially if the victims are marginalised. Sexual violence in war zones and prisons is even less reported and harder to track.

Sexual violence in prisons – a brief introduction

Sexual violence in prisons is a public health issue of global proportions (Caravaca-Sanchez et al., 2022: 3488). Sexual violence in prisons is even more common than it is in what Sanchez et al. call the “general population.” They find that the rates of sexual victimisation in prisons (depending on the study) range from 0.9–12%. In contrast, in the general population, sexual violence affects 2.4% females and 1.5% males, respectively (Caravaca-Sánchez et al., 2022: 3477). Estimatedly, for females and males combined, the overall rate of sexual victimization in prisons is estimated to be around 12.4% (Caravaca-Sánchez et al., 2022: 3477). Moreover, they point out that the rates of sexual violence in prisons should cause larger concern due to a plethora of reasons, namely for their impact on the physical, mental, and emotional health of those incarcerated who are already in a vulnerable position (ibid.). The adverse effects on their health, both mental and physical, are elevated because incarcerated people are also more likely to have experienced trauma in childhood and adulthood (Sanchez and Wolf, 2006: f np).

Like in the general population, Sanchez et al find that women are more likely to be victims of sexual victimisation in prison (specifically, they are 58% more likely to experience sexual violence behind bars than men) (Caravaca-Sánchez et al., 2022: 3484). Being a global study, they conclude that the rates of sexual victimisation were higher for the US inmates compared to their peers in other countries' studies (Sanchez et al., 2022: 3485), which illuminates this as a particularly worrisome issue in the US carceral system. Consistent with previous literature, the authors find that female inmates and younger-aged prison residents (among females) have significantly higher rates of sexual victimisation than their male counterparts (Caravaca-Sánchez et al., 2022: 3584). This is consistent with the statistics in the general population, which show that most victims of sexual assault are under the age of 30 (NSVRC, n.d.).

Despite being an issue of global proportions, sexual violence in prisons is seldom taken seriously. Conversely, it is often the subject of mockery and comedy in American culture, from Saturday Night Live, to movies and even children's cartoons (such as SpongeBob SquarePants). Prison rape jokes are often a joking matter in American households, especially jokes about male prisoner rape (Thrasher, 2015). In his article, Steven V. Thrasher argues that: “Prison rape has become a staple of American comedy because nothing is as hilarious as bad people getting their comeuppance – especially if they are black men,” thus pointing to the interplay of racism and classism in this context (Thrasher, 2015) Not only is prison rape a popular joking matter, it is often a subject matter of volatile public discourse. As pointed out by Craig Minogue, many prominent political

figures have publicly discussed the matter of prison rape, including the former Californian Attorney General, Bill Lockyer, who stated that he would:

love to personally escort [former Enron Chairman Kenneth Lay] to an eight-by-ten cell that he could share with a tattooed dude who says, 'Hi, my name is Spike, honey.' In other words, the chief law enforcement officer of the most populous state in the country not only acknowledges, but celebrates, rape as a feature of criminal punishment. (Minogue, 2021:116)

Unfortunately, such discourse is far from uncommon amongst politicians in power. Then, suppose that is the message spread by our elected officials that shape the policy impacting prisoners. In that case, it is not surprising that such discourse is tolerated and even encouraged by the general public. The fact that prison rape is both seen as revenge for inmates by some of the leading political figures and ingrained in the general public's mind to be a joking matter should be an alarming sign that our sentiments towards inmates reflect the reality of rape culture and hostility and shows a disconnect between the harsh reality of sexual violence in prisons and the way we discuss it.

Theoretical background and terminology

Why is sexual violence (in prisons) so common in the first place? As this paper looks at sexual violence in prisons as a reflection of gender norms and rape culture in society, this section will outline some of the prominent feminist theories about rape and sexual assault. Rape theories specifically are interesting and worth studying, as rape represents perhaps the cruellest form of sexual abuse. In her paper *Feminism, Foucault and Rape*, Holly Henderson points to the prominent theories of rape as proposed by Susan Brownmiller, Christina Hoff Sommers, and Catharine MacKinnon. I will be looking at them and their applicability to the prison context, as well as adding Angela Davis's theoretical remarks about sexual violence in prisons.

One of the most significant works on rape came from the American feminist, Susan Brownmiller, in her book *Against Our Will: Men Women and Rape*. Primarily, she argues that rape as an act is grounded in motivations to dominate politically (Brownmiller, 1993). Henderson writes about Brownmiller's theory: "Rapists do not rape individuals, but members of a class; the act of rape, then,

functions as a reminder to both assailant and victim that membership in one of these classes is the defining element of their sexed identities” (Henderson, 2007: 240). While perhaps convincing, this theory suffers from a biological belief that suggests that, as Henderson writes, women are raped because they are women and they are rapeable because they are women, which is something the French philosopher Michel Foucault warns against in his writing. Brownmiller offers a very sexualised account of rape that suggests a penis is a weapon, a woman is inherently rapeable, and men are virtually impossible to rape. While Brownmiller’s theory could apply to prison settings, since it views rape as an act of power and that those being raped (being men, women or transgender individuals) are in a perceived position, or ‘class’ lower to their perpetrators, it might be limited in the belief that rape can only really be perpetrated by men (when there is plenty of evidence to the contrary) and is harmful in promoting the belief that there is something inherently rapeable about women.

While Brownmiller’s account of rape is biologically sexualised, Christina Hoff Sommers offers a more gender-free conception of the act (Hoff Sommers, 1994). Viewing sexual violence through a non-sexualised lens, Sommers believes the rape of women to be a ‘subvariety’ of rape (Hoff-Sommers, 1994). She understands rape to be a criminal act that any gender can perpetrate. This notion can undoubtedly be applied to the prison context, where rape knows no limits of gender. Henderson, however, criticises this view for the lack of acknowledgement of rape being a product of a patriarchal society. Sommers sees rape as merely a product of a “violence problem” in society (Hoff-Sommers, 1994). While yes, women are not the only victims of rape, they are predominantly the targeted group. Acknowledging rape of women as a subvariety could be a constructive addition to the theoretical conversation if it also admits that it is the most common subvariety rather than ignoring the patriarchal nature of rape, which Henderson argues rejects the very reality of rape (Henderson, 2007: 244).

Offering another sexualised account of rape and sexual violence at large, the prominent American legal scholar Catharine MacKinnon writes that:

Sexuality [...] is a form of power. Gender, as socially constructed, embodies it, not the reverse. Women and men are divided by gender, made into the sexes as we know them, by the social requirement of its dominant form, heterosexuality, which institutionalized male sexual dominance and female sexual submission. If this is true, sexuality is the linchpin of gender inequality. (MacKinnon, 1982: 533)

Further, Mackinnon points to the belief that in a patriarchal society, sex is what women are for. In a heterosexual model promoted by the patriarchal state, a dominance/submission model of desire exists, where women come to be defined by inequality (Henderson, 2007: 245). This account seems encompassing of a wider variety of rapes and applicable to the prison context as women (or those men who, in the eyes of their perpetrators, substitute women) are often a means to sexual gratification, even despite their wishes.

While not studying rape specifically, Angela Davis, in her works *Are Prisons Obsolete?* and *Abolition Democracy* makes stark connections between racism, sexism and writes that sexual assault is “an institutionalised component of punishment” in female prisons (Davis, 2003: 77). The issue of sexual abuse is harrowing for victims who cannot escape their perpetrator, who is often a correctional officer and a figure of authority given their position as inmates (Davis, 2003: 78).

Additionally, discussing the idea of strip searches, she powerfully writes: “If uniforms are replaced with civilian clothes – the guard’s and the prisoner’s – then the act of strip searching would look exactly like the sexual violence that is experienced by the prisoner who is ordered to remove her clothing, stoop, and spread her buttocks. In the case of vaginal and rectal searches, routinely performed on women prisoners in the US, this continuum of sexual violence is even more obvious” (Davis, 2003). This relates to her idea of state-perpetrated sexual assault, mainly present in female prisons. She argues that the reason why female prisoners (and the oppressive strip searches they are subjected to) do not gain much attention is because of the proportion of incarcerated persons that women make (which is much lower than that of men, although steadily decreasing both in the US and abroad) (Davis, 2003: 79). She writes about prisons as historically gendered institutions, made for males and emphasises the historical occurrence and prevalence of sexual violence in prisons: “The neglect of female prisoners, however, was rarely benevolent. Rather, a pattern of overcrowding, harsh treatment, and sexual abuse recurred throughout prison histories” (Davis, 2003: 69). Importantly, she adds an intersectional point to the account by acknowledging that the populations most likely to be subjected to sexual violence and unannounced searches are the historically hypersexualised Black and Latinx women. Her theory of sexual violence seems particularly applicable to female prisons and understanding the role of the state.

These prominent theories of rape and sexual violence aim to explain the prevalence and pervasiveness of rape in the general population and in prisons, adding differing explanations of gender dynamics of sexual violence in prisons.

Cislaghi defines gender norms as “the social rules and expectations that keep the gender system intact,” and these norms often relate to the power imbalance between the genders (Cislaghi, 2019). Gender norms traditionally portray males

as dominant, aggressive, and assertive, and females as weaker, submissive, and passive. Gender norms manifest differently in different prison contexts. This section explores how gender dynamics influence sexual violence among cisgender men in male prisons, cisgender women in female prisons, and transgender women in male prisons to show the overarching manifestation of gender dynamics at play in these different contexts, reflecting the gender dynamics we observe in the general population.

Male prisoner-on-prisoner rape in male prisons

Male prisoner-on-prisoner sexual violence observed in male prisons reflects gender norms present in society, namely that men are entitled to women (or their substitutes) sexually. The 2001 Human Rights Watch report brought male prison rape to the media and public attention. The book-length report that took 3 years in writing, included over 200 prisoners in 37 states identifies male prisoner-on-prisoner sexual violence in American prisons as a significant issue and urges the federal and state governments to take immediate action (which manifests in the passing of PREA Act in 2003, around two years after the report was published) (Mariner, 2001). Returning to MacKinnon's idea of sexual violence as a gendered issue, male-on-male sexual violence involves certain gender norms often observed in society. Namely, Mariner discusses the so-called 'marriage dynamics' of male prisoner-on-prisoner rape and notes that these rapes are often perpetrated by the so-called prison 'husbands' (Mariner, 2001). In the cases of male prisoner-on-prisoner sexual violence, gender dynamics seem to play a key role in determining that the physically stronger and more masculine person will dominate the weaker person, who will (for the time being) be seen as a female).

This issue is not isolated to the US context, as Sasha Gear discusses this phenomenon in her study of sexual violence amongst the male prison population in South Africa. To understand male prisoner-on-prisoner sexual violence, it is crucial to contextualise the prison context and understand the intricacies of power imbalances that occur within the context (Gear, 2010: 26). This phenomenon of prison 'marriages' that often include rape, reflects the inmate culture strongly influenced by gangs that play a significant role in South African prisons and society (Gear 26). These gangs often promote the gender stereotypes present in society—the male victims of sexual violence in prisons are viewed as 'women' and rape and sexual violence are a defining characteristic of 'being a man'. Reflective of contemporary South African society, where rape is incredibly common, these prisoners note: "If sex is done to you, you are now a woman ... when people walk past you, they want to touch you or threaten to rape

you” (Gear, 2010: 26). As noted by Gear, these males are the dominating subjects of the prison communities, who see their ‘wives’ as a means to sexual pleasure whenever it suits them. These prison ‘marriages’ in many ways reflect some of the toxic heterosexual marriages that can be observed outside of prison. Many of these ‘wives’, both in the American and the South African contexts, enter the arrangement to seek protection from being raped by other inmates, and as not entering this prison ‘partnership’ would leave them to be seen as available sexual property (Gear, 2010).

Gear notes that this rape serves as a de-masculisation of the inmate who is raped, who is now seen as a female and available sexual property (Gear, 2010: 27). These realities of male prisoner-on-prisoner rape show terrifying sentiments of male entitlement to bodies deemed weaker and female for their own pleasure. Furthermore, it serves as a rejection of the notion that males can be victims of sexual abuse, too. By marking them as ‘women’, not only is the idea that women are the only gender that can be raped perpetuated, but also the painful reality of abuse endured is denied to male survivors.

Staff-on-inmate abuse and state-perpetrated sexual abuse in female prisons

In female prisons, the most common form of sexual abuse is sexual abuse perpetrated by male correctional officers against female inmates, promoting gender norms of male dominance. All too Familiar, the research report also conducted by the Human Rights Watch and published in 1996, looks specifically at the sexual violence in female prisons in the United States of America and finds that being “a female inmate can be a horrifying experience”, especially because the victims can rarely escape their perpetrator (who is most commonly a male correctional officer) (Human Rights Watch). In her paper, *Impunity: Sexual violence in female prisons*, Kim Shayo Buchanan contends that sexual violence perpetrated by male correctional officers against female inmates is so pervasive that it has been called an “institutional problem” in the sphere of the United States Carceral system (Buchanan, 2007). Like in male prisons, there seems to be a heteronormative notion of ‘relationships’ behind bars, as officers and inmates tend to joke about prison girlfriends and boyfriends (Buchanan, 2007). This again shows that sexual violence seems to be a widely accepted part of human relationships. What makes these women especially susceptible to sexual violence in prison is the past abuse they have often suffered in childhood and adulthood, which leads them to develop unhealthy coping mechanisms and have distorted ideas of healthy relationships (Buchanan, 2007). The prevalence of sexual assault per-

petrated by male officers in female prisons shows how pervasive gender norms manifest in state institutions. While almost all states have prohibited any sexual relations between prisoners and the correctional staff and require a penalty under federal law for such misconduct, this still occurs at a very high rate. Women make up only 7% of prisoners in the United States, yet they make up over 30% of victims of sexual assault perpetrated by correctional staff (Wolff et al., 2006). One of the most notorious prisons is the federal facility, Dublin prison in Northern California, which has gained an infamous name—the rape club. Over the years, this federal facility has gained unwanted media attention as information led the media to believe that over 100 female prisoners have been assaulted by the male staff (The Associated Press, 2024). After their assault, when the prisoners tried to report it, they were often forced into solitary confinement or forced to interact with their abuser. After the information about the rampant rape culture in the Dublin prison gained media attention, the Federal Bureau of Prisons invested heavily in the reform of the prison policies and educational efforts for the correctional staff. However, the Bureau of Prisons has concluded that despite the efforts, the Dublin facility has not been meeting the required standards and has decided to close the facility in 2024 (The Associated Press, 2024). This reality reflects the idea that sexual violence is most likely to be perpetrated by males on females, as (somewhat controversially) observed by Brownmiller.

Gender norms, especially in a context like the Dublin facility, promote a rape culture where the more powerful guards normalise sexual domination of inmates. As noted by MacKinnon, women's vulnerability to sexual violence (especially in prisons) is a product of a pervasive system of social power, which can largely be attributed to the "male state" that promotes this system (MacKinnon, 1989).

Another form of sexual abuse women experience in prisons is, as argued by Angela Davis, state-perpetrated and takes the form of strip searches. Strip searches are invasive procedures that require the prisoners to strip down naked and be inspected by guards to prevent weapons from entering the facility (Davis, 2003). Writing that if the routine practice of a strip search was to be put in a different context, outside the scope and power of state control, it would undoubtedly be viewed as sexual assault, Davis finds that for many prisoners, who are former victims of sexual abuse, these searches can be incredibly traumatizing and degrading. While the Bangkok treaty established guidelines for the procedure, namely limiting it to only necessary searches that are to be conducted on female prisoners by female guards, this treaty was not mandatory to enforce, resulting in an unregulated practice of strip searches (Storey et al., 2025). As ACLU notes, strip searches in female prisons do not receive enough attention and do not cause enough outrage:

In recent years, when the media reported that incarcerated Arab terrorists at Guantanamo Bay were forced to strip naked and pose in a sexually explicit manner, there was public outrage about the inhumane treatment of prisoners. However, female prisoners are repeatedly being subjected to a strip search procedure that is equally humiliating and degrading, yet their cries for help in addressing this indignity have so far fallen on deaf ears, and the abusive procedure continues. (American Civil Liberties Union)

These often-forced strip searches create a power imbalance where the inmates are unable to reject the procedure and are punished for doing so. These searches are a powerful manifestation of the power of a patriarchal state that is allowed to treat its subjects as it pleases under the guise of political control. As Duff writes: “When women are sexually assaulted outside the walls of prisons and police stations, submitting to survive is interpreted as consent. When we are sexually assaulted inside, not only is submitting to survive seen as erasing the violence of the encounter, but not being submissive enough provides legal grounds for an escalation of force. Not resisting means that what happens does not count as violence; resisting means asking for it” (Duff, 2018). Gender norms of passivity and submission dictate such behaviour, and oftentimes women (or the men perceived as women will, in the words of MacKinnon: “may prefer it to the escalated risk of injury and the humiliation of a lost fight; submit to survive” (Mackinnon, 1989).

Transgender female inmates in male prisons

Many transgender inmates experience the gendered dynamics of sexual abuse behind bars, too. The sexual violence perpetrated against, especially transgender, women in male prisons showcases the existence of many gender norms promoting masculinity and minimizing femininity.

UNAIDS defines the term transgender as “an umbrella term to describe people whose gender identity differs from that typically associated with sex assigned at birth” (UNAIDS, 2024). Latimer finds that transgender and non-binary prisoners are especially vulnerable to sexual abuse in prisons. One study, for example, found that transgender inmates were 13 times more likely to experience sexual abuse (Jennes et al., 2019). Most trans people suffer sexual violence at the hands of their fellow prisoners; however, 7%, according to one study by Grant et al., are sexually attacked by correctional staff. A comprehensive research states that a common theme in the transgender inmates’ experience of a prison facility was

seeking a relationship as a means of protection to reduce the instances of assault or victimisation by other prisoners, similar to the dynamics of male prisoner-on-prisoner rape discussed before.

The need to seek protection stems from the fact that many transgender individuals are housed in facilities that match their genitalia and do not match their gender identity, especially if they have not received lower-body-affirming care, meaning those environments are often hostile and dangerous (Bromdal et al., 2019). One transgender woman, placed in a male prison, suffered an assault so vile she could not speak for weeks (Bryant). Similar to male prisoner-on-prisoner abuse, where the victim is often perceived as a female and is routinely punished for being a 'female', transgender inmates in male prisons are devalued and punished for their femininity (Jenness et al., 2019). The prevalent (albeit still limited) research that exists is on the experiences of trans women in male prisons, and very little is known about the experiences of transgender men in female facilities.

Often victimised, transgender women housed in male prisons are commonly put in solitary confinement as a safety reactionary or preventative measure, which has adverse effects on their psychological well-being. The United Nations consider long-term use of solitary confinement to be a form of torture (Bromdal et al., 2019). This "protective measure" is in reality a harsh punishment for victims of sexual abuse. It shows how, in a rape culture, victims of abuse often suffer the adverse consequences of coming forward with the abuse they experience, in this case, solitary confinement.

The idea of a heteronormative marriage is present in the dynamics of sexual abuse against transgender individuals in prisons and is both protective and further victimizing for transgender individuals (Bromdal et al., 2019). Sadly, for many transgender women, their experience of imprisonment brings them closer to their sense of self and gender expression. Through these prison marriages, they often take on roles that are traditionally viewed as feminine; they clean their prison husbands' rooms, take care of them, and please them sexually (Jennes and Fenstermaker, 2016). One transgender inmate reflected on her experience of being repeatedly raped by her prison husband and said that: It was awful, but when he did it, I did feel like his wife (Jenness and Fenstermaker, 2016). This reflects the problematic internalised beliefs of what a woman in society owes to her husband, domestically and sexually, as well as hostility towards those who do not fall on the traditional spectrum of two genders.

This section has looked at the types of sexual assault perpetrated in male and female prisons through the lens of the most likely victims and has found that gender roles play a significant role in the sexual assault. The person committing the assault is in prison, as in society, most likely a male who is assaulting a female or a male in the context perceived as a female. While we have, theoretically,

moved away from the idea that sexual assault can affect anyone, across genders, it is in prisons that we observe the old rhetoric of gendered sexual abuse, which permeates the prison culture in male and female prisons.

Prisons as mirrors of rape culture in society

Prisons undoubtedly exhibit gendered attitudes towards sexual violence, following the patriarchal blueprint of our society. They exacerbate the already existing phenomena that support the idea of rape culture in the general population. This is exhibited in many ways, namely by the gender norms of masculinity that manifest through marriage dynamics prevailing in male and female prisons, victim-blaming and rape myth attitudes, the marginalisation of the transgender community and the lack of accountability and justice for the victims/survivors of sexual violence.

Sexual expectations stemming from prison marriage dynamics highlight some of the ancient expectations of a heteronormative marriage. Early modern jurists wrote that the law understood marriage as a contract that gave consent to sex between spouses at any time, meaning that the woman could not deny her husband sexual access to her body (Featherstone, 2024: 356). While attitudes (at least legally) have changed in the US, as 1993 marked the year all states made marital rape punishable by law, we cannot ignore the recency of this decision. Feminist scholars, such as Bell Hooks, have commented on the pervasiveness of such sexual expectations and entitlement: “males, whether gay or straight, learn early in life that one of the primary rewards offered to them for obedience to patriarchal thought and practice is the right to dominate females sexually. And if no females are around, they have the right to place a weaker man in the ‘female’ position (Hooks, 2004: 83). This is exactly what plays out in prisons, where cis men are assaulted. These can also be transgender women, whose identity their perpetrators very often do not respect or recognise, but go along with it for the sexual and domestic benefits. The marriage dynamics in prisons reinforce a patriarchal ideal of a gender-normed marriage with the traditional roles of a wife and a husband. The marriage dynamics previously discussed in this paper can be found both in men’s prisons, where physically weaker men become “wives,” or transgender women take on the role of the wife. Oftentimes, these roles go hand in hand with the expectation of sexual favours. Similar dynamics of prison “boy-friends” and “girlfriends” can be seen in female prisons. Thus, prisons seem to exacerbate this heteronormative dynamic by encouraging its worst parts, as Jaqui True writes, sexual violence becomes a way of social positioning (True, 2012).

Furthermore, the prisons reflect the reality of rape myths and victim-blaming. Brownmiller and Estrich developed the ideas of rape myths (Featherstone, 2024:355), which contend that sexual violence is supported by the existence of gendered assumptions that contribute to sexual violence not being taken seriously. Some of the most common myths are that victims are to blame for what happened due to their attire, consumption of alcohol and that men need sex (Featherstone, 2024:355). These rape myths are accompanied by victim blaming, which refers to the tendency to hold victims of negative events responsible for those outcomes (Ryan, 1971; Eigenberg and Garland, 2008). This is especially relevant in the assault of homosexual inmates (or victims of sexual violence perpetrated by those of the same gender). While not much research has been done into the attitudes of correctional officers toward victim blaming, a study by Cook and Lane shows that they exhibit similar attitudes to those of the general population. Specifically, perceptions about rape myths and homosexuality drive beliefs about culpability. The results of this research indicate that correctional officers' blaming of incarcerated sexual assault victims is significantly related to acceptance of male rape myths and intolerance of homosexuality (Eigenberg, 2000) also found that correctional officers who condemned homosexuality were also likely to blame inmate victims of sexual assault. In addition, Cook and Lane's sample of jail officers was more likely to blame incarcerated victims of sexual assault if the officers were male, worked in larger facilities, or did not believe victims. Furthermore, Eigenberg found that 23–47% of officers felt that those who had previously engaged in homosexual acts in prison deserved to be sexually assaulted (Eigenberg, 2000: 1989). Between 12–17% of officers reported that inmates who acted in a homosexual manner deserved to be sexually assaulted (Eigenberg, 2000: 1989). Those who condemned homosexuality were more likely to blame incarcerated victims for sexual assault (Eigenberg, 2000). This reflects the reality of blaming women for sexual assault and repeatedly questioning the credibility of the victim by pointing to their potential alcohol consumption, attire, or status as a victim, is especially not credible in prison.

Moreover, prisons exacerbate the marginalisation of the most vulnerable populations, for example, transgender individuals. Members of the LGBTQIA+ community, especially transgender individuals, are more likely to experience sexual violence than other demographics due to the homophobia and sexism they face. Saffin writes that trans women are punished with violence and xenophobia because they choose femininity that is deemed inferior by our environment. It is widely known that trans women face sexual violence at a higher rate than other populations (Saffin, 2021). Outside of the prison, trans women/femmes are estimated 4.3 times more likely to become victims of homicide than cis women (Saffin, 2021). Many trans women also report that their trans status makes

them more susceptible to male violence. Saffin writes of the disproportionate rates for transgender individuals, where nearly 1 in 6 transgender people have been incarcerated at some point in their lives (which exhibits a rate much higher than observed in the general population (Saffin, 2021). Trans women often do not fit the perfect victim narrative, which furthers their victimisation (Saffin, 2021). Once arrested (which is the case for 21% of trans women), they are five times more likely to experience sexual violence by staff than cisgender people and nine times more likely to suffer assault perpetrated by their fellow inmates (Saffin, 2021). Prisons exacerbate the violence they face in their daily lives and expose them to dangerous 'prevention methods', such as solitary confinement.

Like outside of prison, few victims/survivors of sexual abuse receive justice for what happened to them, and their perpetrators are seldom held responsible. Rape is one of the most underreported crimes in the US. While reporting a rape in the general population is already a challenging task, various aspects of prisons make reporting rape or sexual abuse in prison an even more challenging task. The clear imbalances, especially if violence is perpetrated by staff, fear of retaliation and the realisation that the chance of justice is incredibly low are just a few of the reasons why inmates do not feel safe enough to report sexual violence. Furthermore, false accusations, both in prisons and outside, frustrate staff. Underreporting in prisons is likely even more common than in the general population.

Bureaucratic and cultural fixes

Given the low prosecution rates of sexual offenders, the pervasiveness of sexual violence in prisons and outside of them, action needs to be taken. This section will briefly examine the Prison Rape Elimination Act (PREA) as an example of a bureaucratic fix, as well as look at some cultural and theoretical alternatives for eliminating sexual violence in prisons and outside of them. As mentioned before, the report conducted by the Human Rights Watch sparked the passing of the Prison Rape Elimination Act (PREA) in 2003, with the idealistic goal to end prison rape, given the alarming steady rise of sexual assaults. Yet, more than 20 years later, sexual violence in prisons seems to be as high as ever, with reports from 2008 and 2015 stating that sexual violence in prisons has only increased further (Lahm). With news stories of the rape camp in the Dublin federal prison coming out, it seems like little has changed despite the idealistic efforts of the act. How has PREA been successful, and where has it failed?

While a lot of the scholarship takes a rather critical stance toward PREA and its successes, Brenda V Smith acknowledges its few promising wins. Namely, she applauds PREA for establishing channels for inmates to report sexual assault (Smith and Ferdik, 2024). Furthermore, we can attribute the very fact that we have more research on sexual violence to PREA, which increased these efforts. However, overwhelmingly, PREA remains a criticised act in 3 ways. One of the criticisms is that it does not apply to immigrant detention centres, where many children and adults are subjected to sexual violence (Palacios, 2007: np). Furthermore, it seems like the correctional officers and inmates are not taking PREA as seriously as the resource centres would like them to. PREA is also not incredibly enforceable, as prisons that do not comply with the policies lose only 5 percent of funding; therefore, the financial incentive does not correspond with the ambitious implementation plans. Furthermore, many aspects of PREA are recommended but not mandatory. This means that which aspects of PREA are to be implemented is oftentimes left up to the prison itself, largely depending on the administrative attitudes on the implementation of PREA (Palacios, 2017). Lastly, one study argues that PREA itself somewhat contributes to the existence of gender norms, contributing to rape culture in prisons. Because it prohibits officers of the opposite sex to observe inmates in intimate environments, PREA created more jobs for females in the prison systems. Male correctional staff perceive PREA as yet another way women get in the way, take their jobs/positions, and/or hurt them occupationally, promoting gender norms that perpetuate the cycle of violence (Smith and Ferdik, 2024).

As bureaucratic fixes are not producing desired effects, many scholars emphasise that changes in cultural norms are paramount to eradicating sexual violence. Indeed, in an anthropological account of rape, Watson-Franke explores matrilineal societies and notes that rape is practically non-existent in many of those societies. In the communities of the Iroquois, Ashanti people in West Africa, and Mosuo of Southwest China, rape was practically unheard of before the arrival of Westerners (Watson-Franke, 2002). One of the main cultural differences she notes is the perception of masculinity, which in those societies is not solely concentrated in the patriarchal figure of an often-absent father, but is instead split into two- between the father and the maternal uncle. The father in these communities exerts no sexual control over his wife, and they both work together towards the common good of the community. Watson notes intriguingly that rape is a Western idea and that when studying rape, we must consider there are places where it is not a predetermined given, which is a compelling thought (Watson-Franke, 2002). Furthermore, Holly Henderson argues that rape and sexual violence exists on a continuum and to be fought against effectively, it needs to be addressed earlier and not just reactionary, after it has al-

ready happened: “Rape prevention requires that rape not be theorised as a foregone conclusion, rather, feminism must learn to view rape as a consequence or process that can be undermined before it occurs” (Henderson, 2007: 229).

Conclusion

This paper has briefly outlined the scopes of sexual violence in the general population and in prisons and has shown that prisons show exacerbated rates of sexual abuse. Covering some of the most prominent theories of rape by Brown-miller, MacKinnon, and Davis, it has sought to understand the issue of rape and sexual violence from different angles. By covering different types of sexual violence in male and female prisons, it has been found that gender attitudes often present in our society largely dictate the dynamics of sexual abuse behind bars. Clearly, these gender norms also dictate how we address the issue through bureaucratic rather than cultural fixes. Abolitionists call for the destruction of the prison complex. But what if that is not a realistic option? Until sexual abuse is taken seriously in the context of the general population, until we recognise it to be a pertinent public health issue on a global scale, we cannot expect that sexual violence in prisons or outside of them will disappear on its own. What we can do, however, behind bars and in the general public, is to take survivors seriously, stop considering prison rape as a joking matter, enforce trauma-informed care, and educate youth on consent and empathy (Caravaca-Sanchez et al., 2022). Furthermore, as stated in the previous section, there is much to be learned from matrilineal societies that experience little to no sexual abuse. Sexual violence in prisons and in the general population is a violation of human rights of global proportions. It is time we started treating it as such. Whether the aggressor is an individual or the state, as stated by the French survivor Gisele Pelicot: “Shame must change sides.”

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